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**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 1D 2005 64395

LINDA FELIX, P.T.
3968 Shady Ridge Drive
Corona, California 92881

A C C U S A T I O N

Physical Therapist License No. PT 17180

Respondent.

Complainant alleges:

PARTIES

1. Steven K. Hartzell (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California, Department of Consumer Affairs.

2. On or about January 29, 1991, the Physical Therapy Board of California issued Physical Therapist License Number PT 17180 to Linda Felix, P.T. (Respondent). The Physical Therapist License was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2007, unless renewed.

JURISDICTION

3. This Accusation is brought before the Physical Therapy Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

1 4. Section 2660 of the Code states:

2 “The board may, after the conduct of appropriate proceedings under the
3 Administrative Procedure Act, suspend for not more than 12 months, or revoke, or
4 impose probationary conditions upon any license, certificate, or approval issued
5 under this chapter for unprofessional conduct that includes, but is not limited to,
6 one or any combination of the following causes:

7 (a) Advertising in violation of Section 17500.

8 (b) Fraud in the procurement of any license under this chapter.

9 (c) Procuring or aiding or offering to procure or aid in criminal abortion.

10 (d) Conviction of a crime which substantially relates to the qualifications,
11 functions, or duties of a physical therapist or physical therapy assistant. The
12 record of conviction or a certified copy thereof shall be conclusive evidence of
13 that conviction.

14 (e) Impersonating or acting as a proxy for an applicant in any examination
15 given under this chapter.

16 (f) Habitual intemperance.

17 (g) Addiction to the excessive use of any habit-forming drug.

18 (h) Gross negligence in his or her practice as a physical therapist or
19 physical therapy assistant.

20 (i) Conviction of a violation of any of the provisions of this chapter or of
21 the State Medical Practice Act, or violating, or attempting to violate, directly or
22 indirectly, or assisting in or abetting the violating of, or conspiring to violate any
23 provision or term of this chapter or of the State Medical Practice Act.

24 (j) The aiding or abetting of any person to violate this chapter or any
25 regulations duly adopted under this chapter.

26 (k) The aiding or abetting of any person to engage in the unlawful practice
27 of physical therapy.
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1 (l) The commission of any fraudulent, dishonest, or corrupt act which is
2 substantially related to the qualifications, functions, or duties of a physical therapist or
3 physical therapy assistant.

4 (m) Except for good cause, the knowing failure to protect patients by
5 failing to follow infection control guidelines of the board, thereby risking
6 transmission of blood-borne infectious diseases from licensee to patient, from
7 patient to patient, and from patient to licensee. In administering this subdivision,
8 the board shall consider referencing the standards, regulations, and guidelines of
9 the State Department of Health Services developed pursuant to Section 1250.11 of
10 the Health and Safety Code and the standards, regulations, and guidelines
11 pursuant to the California Occupational Safety and Health Act of 1973 (Part 1
12 (commencing with Section 6300) of Division 5 of the Labor Code) for preventing
13 the transmission of HIV, hepatitis B, and other blood-borne pathogens in health
14 care settings. As necessary, the board shall consult with the Medical Board of
15 California, the California Board of Podiatric Medicine, the Board of Dental
16 Examiners of California, the Board of Registered Nursing, and the Board of
17 Vocational Nursing and Psychiatric Technicians, to encourage appropriate
18 consistency in the implementation of this subdivision.

19 The board shall seek to ensure that licensees are informed of the
20 responsibility of licensees and others to follow infection control guidelines, and of
21 the most recent scientifically recognized safeguards for minimizing the risk of
22 transmission of blood-borne infectious diseases.

23 (n) The commission of verbal abuse or sexual harassment.”

24 5. Section 2261 of the Code states:

25 “Knowingly making or signing any certificate or other document
26 directly or indirectly related to the practice of medicine or podiatry
27 which falsely represents the existence or nonexistence of a state of
28 facts, constitutes unprofessional conduct.”

1 6. Section 2661.5 of the Code states:

2 “(a) In any order issued in resolution of a disciplinary proceeding before
3 the board, the board may request the administrative law judge to direct any
4 licensee found guilty of unprofessional conduct to pay to the board a sum not to
5 exceed the actual and reasonable costs of the investigation and prosecution of the
6 case.

7 (b) The costs to be assessed shall be fixed by the administrative law judge
8 and shall not in any event be increased by the board. When the board does not
9 adopt a proposed decision and remands the case to an administrative law judge,
10 the administrative law judge shall not increase the amount of the assessed costs
11 specified in the proposed decision.

12 (c) When the payment directed in an order for payment of costs is not
13 made by the licensee, the board may enforce the order of payment by bringing an
14 action in any appropriate court. This right of enforcement shall be in addition to
15 any other rights the board may have as to any licensee directed to pay costs.

16 (d) In any judicial action for the recovery of costs, proof of the board's
17 decision shall be conclusive proof of the validity of the order of payment and the
18 terms for payment.

19 (e) (1) Except as provided in paragraph (2), the board shall not renew or
20 reinstate the license or approval of any person who has failed to pay all of the
21 costs ordered under this section.

22 (2) Notwithstanding paragraph (1), the board may, in its discretion,
23 conditionally renew or reinstate for a maximum of one year the license or
24 approval of any person who demonstrates financial hardship and who enters into a
25 formal agreement with the board to reimburse the board within that one year
26 period for those unpaid costs.

27 (f) All costs recovered under this section shall be deposited in the
28 Physical Therapy Fund as a reimbursement in either the fiscal year in which the

costs are actually recovered or the previous fiscal year, as the board may direct.

7. Section 2620.7 of the Code states:

“(a) A physical therapist shall document his or her evaluation, goals, treatment plan, and summary of treatment in the patient record.

(b) A physical therapist shall document the care actually provided to a patient in the patient record.

(c) A physical therapist shall sign the patient record legibly.
[...]

8. Section 2630 of the Code states:

“It is unlawful for any person or persons to practice, or offer to practice, physical therapy in this state for compensation received or expected, or to hold himself or herself out as a physical therapist, unless at the time of so doing the person holds a valid, unexpired, and unrevoked license issued under this chapter.

Nothing in this section shall restrict the activities authorized by their licenses on the part of any persons licensed under this code or any initiative act, or the activities authorized to be performed pursuant to Article 4.5 (commencing with Section 2655) or Chapter 7.7 (commencing with Section 3500).

A physical therapist licensed pursuant to this chapter may utilize the services of one aide engaged in patient-related tasks to assist the physical therapist in his or her practice of physical therapy. "Patient-related task" means a physical therapy service rendered directly to the patient by an aide, excluding non-patient-related tasks. "Non-patient-related task" means a task related to observation of the patient, transport of the patient, physical support only during gait or transfer training, housekeeping duties, clerical duties, and similar functions. The aide shall at all times be under the orders, direction, and immediate supervision of the physical therapist. Nothing in this section shall authorize an aide to independently perform physical therapy or any physical therapy procedure.

1 The board shall adopt regulations that set forth the standards and
2 requirements for the orders, direction, and immediate supervision of an
3 aide by a physical therapist. The physical therapist shall provide
4 continuous and immediate supervision of the aide. The physical therapist
5 shall be in the same facility as, and in proximity to, the location where the
6 aide is performing patient-related tasks, and shall be readily available at all
7 times to provide advice or instruction to the aide. When patient-related
8 tasks are provided to a patient by an aide, the supervising physical
9 therapist shall, at some point during the treatment day, provide direct
10 service to the patient as treatment for the patient's condition, or to further
11 evaluate and monitor the patient's progress, and shall correspondingly
12 document the patient's record.

13 The administration of massage, external baths, or normal exercise
14 not a part of a physical therapy treatment shall not be prohibited by this
15 section.”

16 9. California Code of Regulations, title 16, section 1399, states:

17 “A physical therapy aide is an unlicensed person who assists a physical
18 therapist and may be utilized by a physical therapist in his or her practice by
19 performing nonpatient related tasks, or by performing patient related tasks.

20 “(a) As used in these regulations:

21 “(1) A “patient related task” means a physical therapy service rendered
22 directly to the patient by an aide, excluding nonpatient related tasks as defined
23 below.

24 “(2) A “nonpatient related task” means a task related to observation of the
25 patient, transport of patients, physical support only during gait or transfer training,
26 housekeeping duties, clerical duties and similar functions.

27 “(b) “Under the orders, direction and immediate supervision” means:

28 “(1) Prior to the initiation of care, the physical therapist shall evaluate

1 every patient prior to the performance of any patient related tasks by the aide. The
2 evaluation shall be documented in the patient's record.

3 “(2) The physical therapist shall formulate and record in the patient's
4 record a treatment program based upon the evaluation and any other information
5 available to the physical therapist, and shall determine those patient related tasks
6 which may be assigned to an aide. The patient's record shall reflect those patient
7 related tasks that were rendered by the aide, including the signature of the aide
8 who performed those tasks.

9 “(3) The physical therapist shall assign only those patient related tasks that
10 can be safely and effectively performed by the aide. The supervising physical
11 therapist shall be responsible at all times for the conduct of the aide while he or
12 she is on duty.

13 “(4) The physical therapist shall provide continuous and immediate
14 supervision of the aide. The physical therapist shall be in the same facility as and
15 in immediate proximity to the location where the aide is performing patient
16 related tasks, and shall be readily available at all times to provide advice or
17 instruction to the aide. When patient related tasks are provided a patient by an aide
18 the supervising physical therapist shall at some point during the treatment day
19 provide direct service to the patient as treatment for the patient's condition or to
20 further evaluate and monitor the patient's progress, and so document in the
21 patient's record.

22 “(5) The physical therapist shall perform periodic re-evaluation of the
23 patient as necessary and make adjustments in the patient's treatment program. The
24 re-evaluation shall be documented in the patient's record.

25 “(6) The supervising physical therapist shall countersign with their first
26 initial and last name, and date all entries in the patient's record, on the same day as
27 patient related tasks were provided by the aide.”
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1 FIRST CAUSE FOR DISCIPLINE

2 (Failure to Supervise Physical Therapy Aide)

3 10. Respondent is subject to disciplinary action in that she failed to properly
4 supervise the physical therapy provided by her aide, Charles Chavez (Chavez), in violation of
5 section 2630 of the Code and of section 1399 of Title 16 of the California Code of Regulations
6 (Regulations). The circumstances are as follows.

7 11. On or about April 16, 2003, Patient Lynn B.¹ (a male) suffered a massive
8 cerebrovascular accident (i.e., stroke). On or about June 20, 2003, he presented, pursuant to his
9 doctor's order, to the Physical Therapy Department at Kaiser Permanente in Riverside,
10 California, for post cerebrovascular accident (post-CVA) rehabilitation. Respondent was the
11 licensed physical therapist assigned to care for Patient Lynn B.

12 12. From June 20, 2003, to September 12, 2003, according to Kaiser records,
13 Respondent provided physical therapy care to Patient Lynn B. approximately eighteen times on
14 an outpatient basis. Those dates were June 20, 24, and 27, 2003; July 1, 8, 11, 15, 18, 22, 25,
15 and 29, 2003; August 5, 7, 15, 19, 22 and 26, 2003; and September 5, 12, and 16, 2003. Kaiser's
16 records also reflect that Chavez served as Respondent's physical therapist aide on thirteen of
17 these visits. Those dates were June 20, 24, and 27, 2003; July 1, 8, 11, 15, 18, 22, 25, and 29,
18 2003; and August 5 and 7, 2003. The medical records maintained by Respondent of the care
19 provided to Patient Lynn B. do not document that Chavez rendered any physical therapy services
20 to Lynn B. on the thirteen indicated dates. Furthermore, Respondent failed to document the
21 physical therapy care actually provided to Patient Lynn B. on July 29, 2003 and August 5, 7, and
22 15, 2003.

23 13. Chavez's care and treatment of Patient Lynn P. was performed within the
24 ordinary course of Respondent's orders, direction and immediate supervision. Chavez's actions
25 are therefore properly imputed to Respondent pursuant to section 1399, subdivision (b)(3) of the
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1. The full name of the patient to whom reference is made herein will be disclosed to
Respondent upon an appropriate request for discovery.

1 Regulations. While under Respondent's orders, direction and immediate supervision, Chavez
2 failed to perform his duties as her aide in a safe and effective manner on at least two occasions as
3 described in paragraphs 14 and 15 below.

4 14. On one occasion, Chavez instructed Patient Lynn B. to walk with the
5 assistance of two parallel stainless steel handrails in an outdoor area and in direct sunlight; the
6 handrails were hot to the touch. Patient Lynn B. told Chavez that he could not use the stainless
7 steel handrails, stating, "That's too hot, it's burning me." Chavez responded, "That will make
8 you work faster."

9 15. On or about August 7, 2003, during a physical therapy session addressing
10 recovery and strategy for falls, Lynn B. was instructed by Chavez to get onto a floor mat in ten
11 seconds. While Chavez began counting aloud to ten, Lynn B. began to try to lie down on the
12 floor mat and asked Chavez for direction on what position he was to assume. When Chavez
13 reached his count of ten, Lynn B. was not on the floor mat as directed. Chavez then used his leg
14 and foot to force Lynn B. to the ground. Once he was on the ground, Lynn B. began to cry
15 because his right arm, which had no mobility at the time due to his CVA, got caught under the
16 weight of his body and felt like it was being pulled out of his shoulder socket. Chavez reacted to
17 Lynn B.'s crying by stating that "it's part of the program." This incident was not recorded in
18 Lynn B.'s medical record.

19 16. Chavez's care and treatment of Lynn B. as more fully described in
20 paragraphs 14 and 15 above, constituted a failure by Respondent to properly supervise her
21 physical therapist aide in rendering safe and effective physical therapy services in violation of
22 sections 2630 of the Code and section 1399 of the Regulations.

23 17. At all times relevant to the Causes for Discipline alleged herein, Chavez
24 did not possess a physician and surgeon's certificate, a license as a registered nurse, or any other
25 professional health care professional license issued by the State of California. These facts were
26 known to Respondent.

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24. Respondent's failure to document a report of the August 7, 2003, incident referred to in paragraph 15 above in Lynn B.'s medical record constituted a failure to maintain adequate patient records in violation of section 2620.7, subdivision (b), of the Code.

THIRD CAUSE FOR DISCIPLINE

(Creation of False Records)

25. Respondent is subject to disciplinary action under sections 2660, subdivision (i), and 2261 of the Code in that she falsely documented that she herself provided physical therapy services to Patient Lynn B., when in fact her aide, Chavez, rendered the physical therapy services. The circumstances are as follows:

26. The facts alleged in paragraphs 12 and 21 above are alleged at this point.

FOURTH CAUSE FOR DISCIPLINE

(Aiding and Abetting Unlawful Practice of Physical Therapy)

27. Respondent is subject to disciplinary action under sections 2660, subdivisions (j) and (k) in that she aided and abetted Chavez's violation of section 2630 of the Code by his unlawful practice of physical therapy. The circumstances are as follows.

28. The facts alleged in paragraphs 14, 15 and 17 above are alleged at this point.

FIFTH CAUSE FOR DISCIPLINE

(Fraudulent, Dishonest and Corrupt Acts)

29. Respondent is subject to disciplinary action under sections 2660, subdivisions (l) in that she engaged in dishonest and corrupt acts substantially related to the qualifications, functions, or duties of a physical therapist. The circumstances are as follows.

30. The facts alleged in paragraphs 12, 21, 24, 27 and 28 above are alleged at this point.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Physical Therapy Board of California issue a decision:

1. Revoking or suspending Physical Therapist License Number PT 17180,
issued to Linda Felix, P.T.

2. Ordering Linda Felix, P.T. to pay the Physical Therapy Board of California the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 2661.3;

3. Taking such other and further action as deemed necessary and proper, including restricting Linda Felix, P.T. from supervising physical therapy assistants and aides.

DATED: May 15, 2006

Original Signed By: _____
STEVEN K. HARTZELL
Executive Officer
Physical Therapy Board of California
Department of Consumer Affairs
State of California
Complainant